

Todd M. Friedman (SBN 216752)  
Adrian R. Bacon (SBN 280332)  
Meghan E. George (SBN 274525)  
LAW OFFICES OF TODD M. FRIEDMAN, P.C.  
21550 Oxnard St., Suite 780  
Woodland Hills, CA 91367  
Phone: 877-206-4741  
Fax: 866-633-0228  
tfriedman@toddfllaw.com  
abacon@toddfllaw.com  
mgeorge@toddfllaw.com  
*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

KRISTIN BURBANO, individually and ) Case No.  
on behalf of all others similarly situated, )

Plaintiff, )

vs. )

USCB, INC., )

Defendant. )

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
3. FAIR DEBT COLLECTION  
PRACTICES ACT [15  
U.S.C. §1692 ET SEQ.]
4. VIOLATIONS OF THE  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES  
ACT [CAL. CIV. CODE  
§1788 ET SEQ.]

**DEMAND FOR JURY TRIAL**

1 Plaintiff KRISTIN BURBANO (“Plaintiff”), individually and on behalf of  
2 all others similarly situated, alleges the following against Defendant USCB, INC.  
3 upon information and belief based upon personal knowledge:

#### 4 **INTRODUCTION**

5 1. Plaintiff’s Class Action Complaint is brought pursuant to the  
6 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

7 2. Plaintiff, individually, and on behalf of all others similarly situated,  
8 brings this Complaint for damages, injunctive relief, and any other available legal  
9 or equitable remedies, resulting from the illegal actions of Defendant in  
10 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s cellular  
11 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon  
12 personal knowledge as to herself and her own acts and experiences, and, as to all  
13 other matters, upon information and belief, including investigation conducted by  
14 his attorneys.

15 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action  
16 for damages as an individual consumer for Defendant’s violations of the federal  
17 Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter  
18 “FDCPA”) and the Rosenthal Fair Debt Collection Practices Act, Cal Civ. Code  
19 §1788, et seq. (hereinafter “RFDCPA”) which prohibit debt collectors from  
20 engaging in abusive, deceptive, and unfair practices.

#### 21 **JURISDICTION AND VENUE**

22  
23  
24 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
25 a resident of California, seeks relief on behalf of a Class, which will result in at  
26 least one class member belonging to a different state than that of Defendant, a  
27 California company that does business within and beyond the State of California.  
28 Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the

1 TCPA, which, when aggregated among a proposed class in the thousands, exceeds  
2 the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity  
3 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005  
4 (“CAFA”) are present, and this Court has jurisdiction.

5 5. Alternatively, this Court has jurisdiction over this matter pursuant to  
6 28 U.S.C. § 1331 since it arises under the TCPA.

7 6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 over  
8 Plaintiff’s claims arising under the FDCPA, 15 U.S.C. § 1692, *et seq.* Ancillary to  
9 this claim, this Court has jurisdiction pursuant to 28 U.S.C. § 1367(a) over  
10 Plaintiff’s claims arising under the RFDCPA, Cal. Civ. Code § 1788, *et seq.*

11 7. Venue is proper in the United States District Court for the Central  
12 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
13 business within the State of California and Plaintiff resides within this District.  
14

### 15 **PARTIES**

16 8. Plaintiff, KRISTIN BURBANO (“PLAINTIFF”), is a natural person  
17 residing in Los Angeles County in the state of California, and is a “person” as  
18 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “consumer” as defined  
19 by the FDCPA, 15 U.S.C. § 1692a(3) and a “debtor” as defined by the RFDCPA,  
20 Cal. Civ. Code § 1788.2(h).

21 9. At all relevant times herein, DEFENDANT, USCB, INC.  
22 (“DEFENDANT”), is debt collection company, and is a “person” as defined by 47  
23 U.S.C. § 153(39). Furthermore, Defendant, at all relevant times herein, was a  
24 company engaged, by use of the mails and telephone, in the business of collecting  
25 a debt from PLAINTIFF which qualifies as a “debt,” as defined by 15 U.S.C.  
26 § 1692a(5). DEFENDANT regularly attempts to collect debts alleged to be due  
27 another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C.  
28

§1692a(6) and the RFDCPA, Cal. Civ. Code § 1788.2(c).

10. Defendants acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS – TCPA**

11. Beginning in or around September of 2016, Defendant contacted Plaintiff on her cellular telephone number ending in -8107 in an effort to collect an alleged debt owed from Plaintiff.

12. Defendant called Plaintiff from telephone numbers confirmed to belong to Defendant, including without limitation (855) 757-6923.

13. In its efforts to collect the alleged debt owed from Plaintiff, Defendant used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

14. Defendant’s calls constituted calls that were not for emergency purposes as defined by 47 U.S.C. § 227(b)(1)(A).

15. Defendant’s calls were placed to telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

16. During all relevant times, Defendant did not possess Plaintiff’s “prior express consent” to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

17. Plaintiff alleges upon information and belief, including her experience of being called numerous times by Defendant as described herein, that Defendant lacked at all relevant times reasonable policies and procedures aimed at avoiding the violations of the TCPA as herein described.

**FACTUAL ALLEGATIONS – FDCPA**

18. In addition to the facts pled above, at various times prior to the filing of the instant complaint, including within one year preceding the filing of this complaint, DEFENDANT contacted PLAINTIFF in an attempt to collect an alleged outstanding debt.

19. In or about September of 2016, Plaintiff began receiving numerous calls from Defendant.

20. Each of these calls were made to Plaintiff in connection with collection on an alleged debt.

21. DEFENDANT’S conduct violated the FDCPA and RFDCPA in multiple ways, including but not limited to:

- a) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal. Civ. Code § 1788.11(d));
- b) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (15 U.S.C. § 1692c(a)(1)); and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).

22. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continues to suffer injury to PLAINTIFF’S feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and

1 DEFENDANT is liable to PLAINTIFF for PLAINTIFF'S actual damages,  
2 statutory damages, and costs and attorney's fees.

3 **CLASS ACTION ALLEGATIONS**

4 23. Plaintiff brings this action individually and on behalf of all others  
5 similarly situated, as a member of the proposed class (hereafter "The Class")  
6 defined as follows:

7  
8 All persons within the United States who received any  
9 telephone calls from Defendant to said person's cellular  
10 telephone made through the use of any automatic  
11 telephone dialing system or an artificial or prerecorded  
12 voice and such person had not previously consented to  
13 receiving such calls within the four years prior to the  
14 filing of this Complaint

15 24. Plaintiff represents, and is a member of, The Class, consisting of All  
16 persons within the United States who received any collection telephone calls from  
17 Defendant to said person's cellular telephone made through the use of any  
18 automatic telephone dialing system or an artificial or prerecorded voice and such  
19 person had not previously not provided their cellular telephone number to  
20 Defendant within the four years prior to the filing of this Complaint.

21 25. Defendant, its employees and agents are excluded from The Class.  
22 Plaintiff does not know the number of members in The Class, but believes the Class  
23 members number in the thousands, if not more. Thus, this matter should be  
24 certified as a Class Action to assist in the expeditious litigation of the matter.

25 26. The Class is so numerous that the individual joinder of all of its  
26 members is impractical. While the exact number and identities of The Class  
27 members are unknown to Plaintiff at this time and can only be ascertained through  
28 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
The Class includes thousands of members. Plaintiff alleges that The Class

1 members may be ascertained by the records maintained by Defendant.

2 27. Plaintiff and members of The Class were harmed by the acts of  
3 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
4 and Class members via their cellular telephones thereby causing Plaintiff and Class  
5 members to incur certain charges or reduced telephone time for which Plaintiff and  
6 Class members had previously paid by having to retrieve or administer messages  
7 left by Defendant during those illegal calls, and invading the privacy of said  
8 Plaintiff and Class members.

9 28. Common questions of fact and law exist as to all members of The  
10 Class which predominate over any questions affecting only individual members of  
11 The Class. These common legal and factual questions, which do not vary between  
12 Class members, and which may be determined without reference to the individual  
13 circumstances of any Class members, include, but are not limited to, the following:

- 14 a. Whether, within the four years prior to the filing of this  
15 Complaint, Defendant made any collection call (other than a  
16 call made for emergency purposes or made with the prior  
17 express consent of the called party) to a Class member using  
18 any automatic telephone dialing system or any artificial or  
19 prerecorded voice to any telephone number assigned to a  
20 cellular telephone service;
- 21 b. Whether Plaintiff and the Class members were damages  
22 thereby, and the extent of damages for such violation; and
- 23 c. Whether Defendant should be enjoined from engaging in such  
24 conduct in the future.

25 29. As a person that received numerous collection calls from Defendant  
26 using an automatic telephone dialing system or an artificial or prerecorded voice,  
27 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
28 typical of The Class.

1           30. Plaintiff will fairly and adequately protect the interests of the members  
2 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
3 class actions.

4           31. A class action is superior to other available methods of fair and  
5 efficient adjudication of this controversy, since individual litigation of the claims  
6 of all Class members is impracticable. Even if every Class member could afford  
7 individual litigation, the court system could not. It would be unduly burdensome  
8 to the courts in which individual litigation of numerous issues would proceed.  
9 Individualized litigation would also present the potential for varying, inconsistent,  
10 or contradictory judgments and would magnify the delay and expense to all parties  
11 and to the court system resulting from multiple trials of the same complex factual  
12 issues. By contrast, the conduct of this action as a class action presents fewer  
13 management difficulties, conserves the resources of the parties and of the court  
14 system, and protects the rights of each Class member.

15           32. The prosecution of separate actions by individual Class members  
16 would create a risk of adjudications with respect to them that would, as a practical  
17 matter, be dispositive of the interests of the other Class members not parties to such  
18 adjudications or that would substantially impair or impede the ability of such non-  
19 party Class members to protect their interests.

20           33. Defendant has acted or refused to act in respects generally applicable  
21 to The Class, thereby making appropriate final and injunctive relief with regard to  
22 the members of The Class as a whole.

23 ///

24 ///

25 ///

26 ///



**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**By Plaintiff and The Class Against Defendant**

34. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-33.

35. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

36. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

37. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**By Plaintiff and The Class Against Defendant**

38. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-33.

39. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

40. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*

1 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

2 41. Plaintiff and the Class members are also entitled to and seek  
3 injunctive relief prohibiting such conduct in the future.

4 **THIRD CAUSE OF ACTION**

5 **Violations of the Federal Fair Debt Collection Practices Act**

6 **15 U.S.C. § 1692 et seq.**

7 **By Plaintiff, Individually, Against Defendant**

8  
9 42. Plaintiff repeats and reincorporates by reference into this cause of  
10 action allegations set forth above at paragraphs 1-22.

11 43. To the extent that Defendant's actions, counted above, violated the  
12 RFDCPA, those actions were done knowingly and willfully.

13 **FOURTH CAUSE OF ACTION**

14 **Violations of the Rosenthal Fair Debt Collection Practices Act**

15 **Cal. Civ. Code § 1788 et seq.**

16 **By Plaintiff, Individually, Against Defendant**

17  
18 44. Plaintiff repeats and reincorporates by reference into this cause of  
19 action allegations set forth above at paragraphs 1-22.

20  
21 45. To the extent that Defendant's actions, counted above, violated the  
22 RFDCPA, those actions were done knowingly and willfully.

23  
24 ///

25 ///

26 ///

27 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

3 **FIRST CAUSE OF ACTION**

4 **Negligent Violations of the Telephone Consumer Protection Act**

5 **47 U.S.C. §227 et seq.**

- 6 • As a result of Defendant's negligent violations of 47 U.S.C.  
7 §227(b)(1), Plaintiff and the Class members are entitled to and  
8 request \$500 in statutory damages, for each and every violation,  
9 pursuant to 47 U.S.C. 227(b)(3)(B).  
10 • Any and all other relief that the Court deems just and proper.

11 **SECOND CAUSE OF ACTION**

12 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

13 **Act**

14 **47 U.S.C. §227 et seq.**

- 15 • As a result of Defendant's willful and/or knowing violations of 47  
16 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to  
17 and request treble damages, as provided by statute, up to \$1,500, for  
18 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47  
19 U.S.C. §227(b)(3)(C).  
20 • Any and all other relief that the Court deems just and proper.

21 **THIRD CAUSE OF ACTION**

22 **Violations of the Federal Fair Debt Collection Practices Act**

23 **15 U.S.C. § 1692 et seq.**

24  
25 WHEREFORE, Plaintiff respectfully prays that judgment be entered against  
26 Defendant for the following:

- 27  
28 A. Actual damages;

- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

**FOURTH CAUSE OF ACTION**

**Violations of the Rosenthal Fair Debt Collection Practices Act  
Cal. Civ. Code § 1788 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

**TRIAL BY JURY**

46. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted this 4th day of March, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff